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9 UNITED STATES DISTRICT COURT  
10 WESTERN DISTRICT OF WASHINGTON  
11 AT TACOMA

12 HILLARY WALLS,

13 Plaintiff,

14 v.

15 PIERCE COUNTY JAIL *et al.*,

16 Defendants.

Case No. C07-5153RJB

REPORT AND  
RECOMMENDATION

**NOTED FOR:  
November 23, 2007**

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18 This 42 U.S.C. § 1983 Civil Rights action has been referred to the undersigned Magistrate Judge  
19 pursuant to Title 28 U.S.C. §§ 636(b)(1)(A) and 636(b)(1)(B) and Local Magistrates' Rules MJR 1, MJR 3, and  
20 MJR 4. Before the court is defendant Harold Clarke's motion to be dismissed from this action pursuant to Fed.  
21 R. Civ. P. 12(b)(6) (Dkt # 46). Defendant Clarke is the Secretary of the Washington State Department of  
22 Corrections. Plaintiff named the "Chief of Corrections" in his complaint.

23 Plaintiff has responded and states he indented to name the Chief of the Pierce County Department of  
24 Corrections, i.e. the Chief of the Jail, not Mr. Clarke (Dkt # 50). Plaintiff agrees defendant Clarke should be  
25 dismissed form this action (Dkt. # 50). Defendant Clarke should be **DISMISSED**.

26 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal rules of Civil Procedure, the  
27 parties shall have ten (10) days from service of this Report to file written objections. *See also* Fed. R. Civ.  
28 P. 6. Failure to file objections will result in a waiver of those objections for purposes of appeal. Thomas v.

1 Arn, 474 U.S. 140 (1985). Accommodating the time limit imposed by Rule 72(b), the clerk is directed to  
2 set the matter for consideration on **November 23, 2007**, as noted in the caption.

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4 DATED this 31 day of October, 2007.

5 /S/ J. Kelley Arnold  
6 J. Kelley Arnold  
7 United States Magistrate Judge  
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